



W.A.(MD)No.6 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 28.01.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MS.JUSTICE R.POORNIMA**

**W.A.(MD)No.6 of 2023
and
C.M.P.(MD)Nos.132 and 11441 of 2023**

- 1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Health and Family Welfare Department, Secretariat,
Chennai - 600 009.
 - 2.The Director of Public Health and Preventive Medicine,
O/o. The Public Health and Preventive Medicine,
D.M.S. Compound, Teynampet,
Chennai - 600 006.
- ... Appellant / Respondents

Vs.

S.Ramachandran ... Respondent / Writ Petitioner

Prayer : Writ Appeal filed under Clause XV of Letters Patent, to set aside
the order dated 29-06-2022 passed in W.P.(MD).No.6692 of 2020 on the file of this
Court.



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For Appellants : Mr.P.Veerakathiravan,
Addl. Advocate General,
Assisted by Mr.K.S.Selvaganesan,
Addl. Government Pleader.

For Respondent : Mr.B.Saravanan, Senior Counsel,
Assisted by Mr.C.Jeganathan.

JUDGMENT

(Judgment of the court was delivered by G.R.Swaminathan, J.)

Heard the learned Additional Advocate General assisted by the learned Additional Government Pleader for the appellants and the learned senior counsel assisted by the learned counsel for the respondent / writ petitioner.

2.The respondent / Ramachandran who is working as Health Inspector Grade I complained that his junior / Mohamed Ameen who is working as Health Inspector Grade I is getting more pay and that therefore, his pay should be stepped up. The respondent herein submitted representations dated 15.04.2015 and 23.09.2019. Since they were not considered, he filed W.P.(MD)No.21767 of 2019. The writ petition was disposed of on 16.10.2019 in the following terms:-



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“3.According to the petitioner, one Leprosy Inspector / Health Inspector Grade I-B, by name, Mohammed Ameen, working under the second respondent, bearing seniority No. 4191, as per the revised seniority list published by the second respondent, was getting his pay of Rs.7100/- with effect from 01.09.1998 under the Special Grade Health Inspector Grade-I pay of Rs.5900-200-9900, vide proceedings of the Deputy Director of Medical (Leprosy) Tirunelveli, dated 24.11.2014. The petitioner's seniority number in the list is 2181 and he is the senior to the said Mohammed Ameen. His junior is getting higher pay and arrears of increased allowances. Therefore, the petitioner has sent representations dated 15.04.2015 and 23.09.2019 to refix his scale of pay on par with his juniors, who were working as Leprosy Inspectors and to redesignate as Health Inspector Grade-I. However, till date, no order has been passed thereon. Hence, the petitioner has come out with the present Writ Petition.

4.Considering the nature of relief sought for by the petitioner, without deciding the issues on merits and the delay in sending the representations, this Court directs the second respondent to consider the representations of the petitioner dated 15.04.2015 and 23.09.2019 on merits and pass appropriate orders in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order.”



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3.Pursuant to the direction given by this Court, the Director of Public Health and Preventive Medicine, DMS Campus, Teynampet, Chennai - 6 vide order dated 30.01.2020 rejected the petitioner's request for stepping up pay. Questioning the same, the respondent filed W.P.(MD)No.6692 of 2020. The said writ petition was allowed by the learned Single Judge vide order dated 29.06.2022 in the following terms:-

“4.In G.O.(D).No.917, Health and Family Welfare (L1) Department, dated 11.09.2014, Rule 10(b) of the Tamil Nadu Public Health Subordinate Service Rules came to be amended, whereby the scale of pay for the Leprosy Inspector was revised at Rs.4500-7000. Thus, when the post of Health Inspector Grade I B was redesignated as Health Inspector Grade I, both the petitioners, as well as his junior viz., Mr.Mohammed Ameen were brought under the same scale of pay at Rs.4500-125-7000.

5.Admittedly, the petitioner is senior to Mohammed Ameen. Thus, there appears to be a parity in the pay scale with effect from 1997, whereby his junior was drawing a higher scale than the petitioner herein. By applying Rule 22B Rulings (2) of the Fundamental Rules of the Tamil Nadu Government, it can be said that since the re-designation of the post from Health Inspector



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Grade I B to Health Inspector Grade-I, both the petitioner as well as his junior would be deemed to be in the same cadre and in the same post from 01.08.1997 onwards.

6.The respondents seems to have misconstrued the facts and have made an attempt to compare the earlier cadre held by both the petitioner and his junior. What requires to be considered here is, after the integration of Health Inspector Grade I B as Health Inspector Grade -I, which post the petitioner was also holding at that point of time, there cannot be any parity in the pay scale between the senior and junior, since both were holding the post of Health Inspector Grade-I. Thus, the reason assigned by the second respondent by quoting that the petitioner and his junior were not of the same cadre during their original appointment cannot be sustained.

7.In the result, the impugned order dated 30.01.2020, passed by the second respondent is quashed. Consequently, there shall be a direction to the second respondent herein to revise the salary of the petitioner and bring it on par with his junior viz., Mohammed Ameen from the date on which the parity arose. The second respondent shall pass such orders within a period of eight (8) weeks from the date of receipt of a copy of this order.”

Questioning the same, the department has filed this intra-court appeal.



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5.The learned Single Judge had applied Rule 22(b) Rulings (2) of the Fundamental Rules of the Tamil Nadu Government. The said rule reads as follows:-

“Rule 22. Initial Fixation of pay on first appointment:

For the purpose of Rules 22 and 23, a temporary post on a certain rate of pay (fixed or time-scale) which is converted into a permanent post on the same or a different rate of pay, is not the “same post” as the permanent post, even though the duties remain the same. In other words, in view of Rule 9 (30), the permanent post is to be regarded as having ceased to exist and to have been replaced by the permanent post. The incumbent of the temporary post is the case is covered by the concession admissible under clauses (ii) and (iii) of Proviso to Rule 22.”

6.The order passed by the learned Single Judge allowing the writ petition can be sustained, if it is shown that the writ petitioner / Ramachandran and Mohamed Ameen had worked in very same lower post and were drawing the same rate of pay. It has been convincingly demonstrated before us that while Ramachandran joined service as Basic

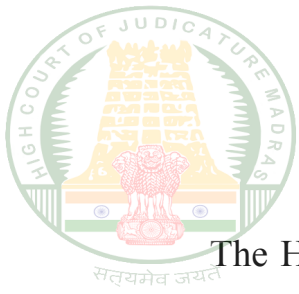


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Health Worker on 28.03.1968 in Public Health Department, Mohamed Ameen joined as Para Medical Worker on 20.11.1975 in Leprosy Department. Ramachandran was subsequently promoted as Selection Grade Basic Health Worker in the year 1978 and then as Special Grade Multi Purpose Health Assistant in the year 1988. He was promoted as Health Inspector Grade I on 11.09.1995. The trajectory of the career of Mohamed Ammen was as follows:-

He was promoted as Leprosy Inspector on 01.04.1981 and he was in the pay scale of 400-15-490-20-650-25-700. During the same, the writ petitioner / Ramachandran was in the pay scale of 325-10-445-15-550. Mohamed Ammen was promoted to the post of Special Grade Leprosy Inspector and then was promoted as Special Grade Health Inspector Grade I.

7. There was an integration of these two departments. The post of Leprosy Inspector was incorporated with that of Health Inspector Grade I. The issue of integration and consequential service benefits was taken up for consideration by the Hon'ble Supreme Court in the decision reported in **(2013) 7 SCC 335 (S.Sivaguru Vs. State of Tamil Nadu)**.



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The Hon'ble Supreme Court summed up its conclusion in the following terms:

“72.At this stage, we may summarise the conclusions recorded by us in the following manner:-

72.1. The integration of Leprosy Inspectors into the Department of Health and Preventive Medicine by G.O.Ms. No. 320 dated 27th June, 1997 was complete in all respects.

72.2. The aforesaid G.O. Ms. No. 320 dated 27th June, 1997 did not bring about an amendment in the Statutory Services Rules contained in G.O. Ms. No. 1507 dated 16th August, 1989. The G.O.Ms. was supplementary to the aforesaid Rules and did not supplant the same.

72.3. There was no relaxation in the educational qualification for the integration/re-designation of Leprosy Inspectors as Multi Purpose Health Supervisors as the post of Leprosy Inspector was equated with the post of Multi Purpose Health Supervisor. The qualifications prescribed for appointment on the post of Multi Purpose Health Assistants re-designated as Health Inspector Grade II were not applicable for the post of Multi Purpose Health Supervisor.

72.4. Since, there was a complete integration of the posts of Leprosy Inspector and Multi Purpose Health Supervisor by virtue of G.O.Ms. No. 320 dated 27th June, 1997; both categories were entitled to the same treatment. Therefore, Leprosy Inspectors re-



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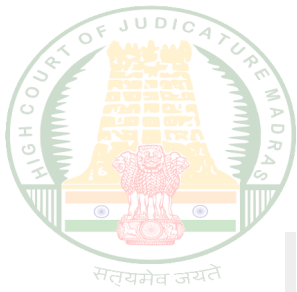
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designated as Health Inspector Grade IB were entitled to the pay-scale of Rs.1350-2000 w.e.f. 1st August, 1997 and the pay-scale of Rs.4500-7000 w.e.f. the same were given to Health Inspector Grade IA, with all consequential benefits.

72.5. Upon integration vide GOMs No.320 dated 27th June, 1997, Multi Purpose Health Supervisors and Leprosy Inspectors were to be re-designated as Health Inspector Grade I. The birth mark of the Leprosy Inspector got obliterated with the integration. There could be no further distinction in the cadre of Health Inspector Grade I. There could be no such division as Health Inspector Grade IA and Health Inspector Grade IB.

72.6 Since Paragraph 6(iv) and 6(v) of G.O.Ms. No. 382 dated 12th October, 2007 was in violation of [Articles 14](#) and [16](#) of the Constitution of India, they have been correctly struck down by the High Court.

72.7. The denial of seniority to the re-designated Health Inspectors Grade IB, i.e., erstwhile Leprosy Inspectors on the post of Health Inspector Grade I w.e.f. 1st August, 1997 to 12th October, 2007 violated [Articles 14](#) and [16](#) of the Constitution of India. The Division Bench of the High Court has correctly concluded that the integrated Leprosy Inspectors, re-designated as Health Inspector Grade IB are to be re-designated as Health Inspector Grade I and to be given seniority as well as consequential reliefs such as seniority and further promotions.



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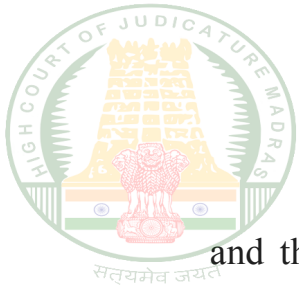


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72.8. *The provision contained in Clause 6(v) of G.O.Ms. No. 382 dated 12th October, 2007 denying promotion of the re-designated Health Inspector Grade I to the post of Block Health Supervisor and Technical Personal Assistant till the last person in the existing list of Health Inspector Grade I gets promotion as Block Health Supervisor and Technical Personal Assistant, has been rightly held by the High Court to be violative of Articles 14 and 16 of the Constitution of India.*

72.9. *The continuance of the existing promotion channels as Non-Medical Supervisor and Health Educator to the re-designated Health Inspector grade I (erstwhile Leprosy Inspectors) did not amount to bestowing a double benefit upon this category. Therefore, the High Court did not enforce negative equality. The High Court has correctly observed that upon integration and merger into one cadre, the pre-existing length of service of the Leprosy Inspectors re-designated as Health Inspector Grade IB had to be protected as it can not be obliterated. Therefore, the Leprosy Inspectors have been correctly placed at the bottom of the seniority list of the already existing Health Inspectors Grade I w.e.f. 27th June, 1997. Therefore, it can not be said that benefit has been given to the Leprosy Inspectors /Health Inspector Grade IB /Health Inspector Grade I with retrospective effect.”*

Now coming back to Rule 22(b) Rulings (2) of the Fundamental Rules, it is seen that the writ petitioner / Ramachandran and Mohamed Ameen with whom he seeks to compare himself were not in the same lower post



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and they were not drawing the same rate of pay. Therefore, the very application of the aforesaid ruling is fallacious. The learned Single Judge erred in applying the aforesaid ruling to the facts of the case and ordering stepping up of the writ petitioner's pay.

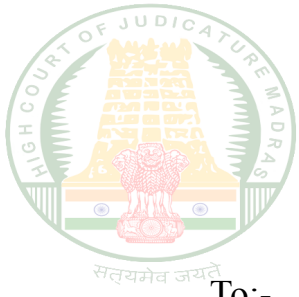
8.Of course, the learned senior counsel for the respondent / writ petitioner contended that since Ramachandran was admittedly senior to Mohamed Ameen in the post of Health Inspector Grade I, the junior getting higher pay is obviously an anomaly and thus, there is an infraction of the equality mandate set out in Article 16 of the Constitution of India. This was never the case projected by the writ petitioner. We therefore decline to consider this contention.

9.The order impugned in this writ appeal is set aside and the writ appeal is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

(G.R.S. J.) & (R.P. J.,)
28.01.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:-
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- 1.The Principal Secretary to Government,
Health and Family Welfare Department, Secretariat,
Chennai - 600 009.
- 2.The Director of Public Health and Preventive Medicine,
D.M.S. Compound, Teynampet,
Chennai - 600 006.



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and
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